

HOUSE BILL 62

Unofficial Copy
M3
HB 473/02 - ENV

2003 Regular Session
3r0599

By: **Delegates Hubbard, Benson, Bobo, Cane, V. Clagett, Frush, Morhaim,
Nathan-Pulliam, Oaks, and Owings**

Introduced and read first time: January 21, 2003

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Products That Contain Mercury - Labeling and Disposal**

3 FOR the purpose of prohibiting manufacturers and retailers from selling, on or after
4 a certain date, certain products that contain mercury unless a certain label is
5 affixed to the product; exempting certain products that contain mercury from
6 the labeling and disposal requirements; providing for certain information to be
7 included on the label; prohibiting a person from disposing of certain products
8 that contain mercury, on or after a certain date, unless certain conditions have
9 been met; requiring operators of refuse disposal systems to provide notice of
10 certain disposal prohibitions to certain persons; requiring the Department of the
11 Environment to adopt certain regulations by a certain date; requiring the
12 Department to consult with certain stakeholders before adopting certain
13 regulations; and generally relating to the labeling and disposal of products that
14 contain mercury.

15 BY repealing and reenacting, with amendments,
16 Article - Environment
17 Section 6-905
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2002 Supplement)

20 BY adding to
21 Article - Environment
22 Section 6-905.1 and 6-905.2
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 2002 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Environment**

2 6-905.

3 (a) In this [section, "marketer"] PART THE FOLLOWING WORDS HAVE THE
4 MEANINGS INDICATED.5 (B) "MARKETER" means a person who manufactures, assembles, sells,
6 distributes, OR affixes a brand name or private label to, or licenses the use of a brand
7 name on a fever thermometer containing mercury.8 [(b) Beginning October 1, 2002, a marketer may not sell or provide a fever
9 thermometer containing mercury to a consumer except by prescription.

10 (c) This section does not apply to:

11 (1) Fever thermometers sold or provided to be used in hospitals or other
12 places where medical services are provided by medical service professionals; or

13 (2) Digital thermometers using mercury-added button cell batteries.]

14 (C) "MERCURY-ADDED PRODUCT" MEANS ANY OF THE FOLLOWING PRODUCTS
15 IF CONTAINING ELEMENTAL MERCURY OR A MERCURY COMPOUND THAT HAS BEEN
16 ADDED TO THE PRODUCT FOR ANY REASON:

17 (1) DYES OR PIGMENTS;

18 (2) ELECTRIC SWITCHES;

19 (3) FLUORESCENT LAMPS; AND

20 (4) THERMOSTATS.

21 6-905.1.

22 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A MARKETER
23 MAY NOT SELL OR PROVIDE A FEVER THERMOMETER CONTAINING MERCURY TO A
24 CONSUMER EXCEPT BY PRESCRIPTION.

25 (B) THIS SECTION DOES NOT APPLY TO:

26 (1) A FEVER THERMOMETER SOLD OR PROVIDED TO BE USED IN
27 HOSPITALS OR OTHER PLACES WHERE MEDICAL SERVICES ARE PROVIDED BY
28 MEDICAL SERVICE PROFESSIONALS; OR29 (2) A DIGITAL THERMOMETER USING MERCURY-ADDED BUTTON CELL
30 BATTERIES.

31 6-905.2.

32 (A) THIS SECTION DOES NOT APPLY TO:

1 (1) PRESCRIPTION DRUGS;

2 (2) ANY SUBSTANCE REGULATED BY THE FEDERAL FOOD, DRUG, AND
3 COSMETIC ACT; OR

4 (3) BIOLOGICAL PRODUCTS REGULATED BY THE FEDERAL FOOD AND
5 DRUG ADMINISTRATION UNDER THE FEDERAL PUBLIC HEALTH SERVICE ACT.

6 (B) (1) ON OR AFTER APRIL 1, 2005, UNLESS THE PRODUCT IS LABELED IN
7 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND THE REGULATIONS
8 ADOPTED BY THE DEPARTMENT UNDER THIS SECTION, A MANUFACTURER OR
9 WHOLESALER MAY NOT SELL A MERCURY-ADDED PRODUCT:

10 (I) AT RETAIL IN THE STATE;

11 (II) TO A RETAILER IN THE STATE; OR

12 (III) FOR USE IN THE STATE.

13 (2) ON OR AFTER APRIL 1, 2005, UNLESS THE PRODUCT IS LABELED IN
14 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND THE REGULATIONS
15 ADOPTED BY THE DEPARTMENT UNDER THIS SECTION, A RETAILER MAY NOT
16 KNOWINGLY SELL A MERCURY-ADDED PRODUCT IN THE STATE.

17 (C) THE LABEL OF A MERCURY-ADDED PRODUCT MUST CLEARLY INFORM
18 THE PURCHASER OR CONSUMER THAT:

19 (1) MERCURY IS PRESENT IN THE PRODUCT; AND

20 (2) THE PRODUCT MAY NOT KNOWINGLY BE DISPOSED OF OR PLACED IN
21 A WASTE STREAM DESTINED FOR DISPOSAL UNTIL THE MERCURY IS REMOVED AND
22 REUSED, RECYCLED, OR OTHERWISE MANAGED TO ENSURE THAT IT DOES NOT
23 BECOME PART OF SOLID WASTE OR WASTEWATER.

24 (D) THE MANUFACTURER OF A MERCURY-ADDED PRODUCT IS RESPONSIBLE
25 FOR AFFIXING THE LABEL REQUIRED BY THIS SECTION.

26 (E) ON OR AFTER OCTOBER 1, 2005, A PERSON MAY NOT KNOWINGLY DISPOSE
27 OF A MERCURY-ADDED PRODUCT IN A REFUSE DISPOSAL SYSTEM LOCATED IN THE
28 STATE UNLESS THE MERCURY HAS BEEN:

29 (1) REMOVED FROM THE PRODUCT; AND

30 (2) REUSED, RECYCLED, OR OTHERWISE MANAGED TO ENSURE THAT IT
31 DOES NOT BECOME PART OF SOLID WASTE OR WASTEWATER.

32 (F) ON OR BEFORE OCTOBER 1, 2005, THE HOLDER OF A PERMIT TO OPERATE A
33 REFUSE DISPOSAL SYSTEM SHALL POST SIGNAGE AT ALL ENTRANCES TO THE
34 REFUSE DISPOSAL SYSTEM INFORMING THE PUBLIC OF THE PROHIBITION ON
35 DISPOSING OF MERCURY-ADDED PRODUCTS CONTAINED IN SUBSECTION (E) OF THIS
36 SECTION.

1 (G) BY OCTOBER 1, 2004, THE DEPARTMENT SHALL ADOPT REGULATIONS
2 NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION, INCLUDING:

3 (1) ESTABLISHING STANDARDS FOR THE SIZE, LOCATION, AND
4 TYPEFACE OF THE LABEL REQUIRED BY THIS SECTION; AND

5 (2) ESTABLISHING CRITERIA UNDER WHICH A PERSON SUBJECT TO
6 THIS SECTION MAY BE EXEMPTED FROM THE LABELING AND DISPOSAL
7 REQUIREMENTS AND LIMITATIONS OF THIS SECTION.

8 (H) BEFORE ADOPTING A REGULATION UNDER THIS SECTION, THE
9 DEPARTMENT SHALL CONSULT WITH PERSONS THAT HAVE AN INTEREST IN OR ARE
10 DIRECTLY IMPACTED BY THE PROPOSED REGULATION.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect October 1, 2003.